



United States  
Environmental  
Protection Agency

Region 10  
1200 Sixth Avenue  
Seattle, WA 98101

Alaska  
Idaho, Oregon  
Washington

EPA 910-R-05-004

**Region 10**

**Compliance Assurance  
Achievement Highlights**

**Spring 2005**

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## Compliance and Enforcement Programs Record Environmental Progress

Region 10's Compliance and Enforcement programs made strides in FY04, with considerable success both in educating the regulated community and increasing environmental compliance. The work involved virtually every Agency program designed to protect human health and the environment.

In FY04:

The programs conducted 1,217 inspections—a significant 23% increase over the previous year—providing compliance information and help in roughly half of those cases. To improve understanding of environmental responsibilities, Region 10 held 115 workshops or training sessions. Regional staff also visited 17 facilities, without doing inspections, to educate them about regulatory requirements.

Enforcement actions also rose last year. An important factor was the use of Expedited Settlements, which allows faster resolution of some kinds of violations with smaller penalties. About \$1.7 million in civil and judicial penalties were assessed during the year. Due to enforcement actions, companies agreed to perform more than \$28 million worth of environmental improvements. In some cases, as a part of the settlement, companies agreed to provide Supplemental Environmental Projects (SEPs) in the community. More than \$600,000 worth of SEPs were planned.

Accomplishments that can readily be measured point to significant improvement during the year: more than 21 million pounds of pollution were reduced or treated, over 16,000 cubic yards of soil cleaned up, and 25 acres of wetlands protected or mitigated by Region 10 enforcement actions. Education is a key factor in compliance, and the Region reached almost 67,000 facilities with information about meeting EPA regulations.

Short-term effects don't tell the whole story, though. Each year that EPA is able to realize environmental benefits means that people of the Pacific Northwest will be living and breathing better.



Michael A. Bussell, Director  
Office of Compliance and Enforcement

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## WORKING EFFECTIVELY WITH TRIBES

### **EPA Helps Tribes Maintain Safe Drinking Water Systems**

With a high degree of cooperation and commitment to safe drinking water, EPA and Region 10 Indian Tribes have made great strides in protecting public health and the environment. The Hoh Tribe had faced a serious challenge when a nearby river channel threatened two wells that make up the community's primary water source. The Tribe cooperated with EPA to inform community members of the health risks, and to improve operation and maintenance of the drinking water system.

The Nooksack Tribe has struggled for years to conduct required reporting and monitoring for its drinking water system. Following a compliance meeting with EPA, the Tribe hired a dedicated water operator and helped him achieve certification. While some of the systems continue to have minor compliance problems, all required monitoring and reporting for Nooksack water systems are now being done on a reliable basis.

The Coeur d'Alene Tribe operates three public water systems, which EPA determined were not being operated or maintained properly. The Tribe was awarded a capacity-development grant from EPA's Tribal Set-aside program (Tribal set-aside of State Revolving Fund). EPA technical assistance, coupled with potential EPA enforcement actions, has resulted in a full return to compliance by the Coeur d'Alene Tribe for all three water systems.

## SAFE USE OF PESTICIDES

### **EPA Addresses Argent Chemical Labs' Alleged Pesticide Violations**

In one of the biggest federal pesticide cases ever filed in the Northwest, EPA issued a 304-count complaint against Argent Chemical Laboratories in Redmond, Washington. The complaint alleges that Argent and company owners Eliot Lieberman and Beatriz Shanahan illegally produced, sold, imported, and exported a variety of potentially

### **PESTICIDES** *continued*

dangerous pesticides, in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The alleged violations continued, even after a criminal conviction in 1988 and a civil penalty in 1993. In a 1998 letter, Argent notified EPA that it was no longer producing pesticides; however, subsequent inspections revealed that the company was continuing to produce, distribute or sell pesticides. All violations in this complaint occurred after 1998 and reflect flagrant disregard for rules concerning the safe use of potentially dangerous products.

FIFRA requires several things of all pesticides manufacturers, wholesalers, importers and exporters. They must register their products and their pesticide-producing establishments with the federal government; provide basic health and safety information to their customers; and sell "restricted-use" pesticide products only to licensed pesticide applicators.



*Inspection at a pesticide establishment.*

## **EPA Initiative Protects Animals from Counterfeit Pet Products**

EPA began an inspection program to determine the extent and level of illegal pet-product sales at retail and wholesale dealers. The action responded to the introduction of counterfeit Bayer Advantage and Merial Frontline flea and tick products in the NW Region. EPA conducted 24 inspections in Oregon and Washington and found both counterfeit and foreign (re-stickered) products at many of the dealers. As a result of the inspections, 17 Stop Sale Orders were issued and several of the major importers and distributors were identified.

In order to provide assistance to other dealers, the Agency sent an information letter and fact sheet listing the issues and how to identify illegal products to some 800 pet-product dealers. This information was also posted on the Regional website.

## ***PROTECTING OUR WATER RESOURCES***

### **Idaho Protected from Future Tank-leakage Problems by Underground Storage Tank Inspection Campaign**

Idaho's groundwater is relied upon by 95% of its people for drinking water, agricultural irrigation, and commerce. That groundwater can be devastated by petroleum products from leaking underground storage tanks (UST). Last year, expenditures on leaking-tank cleanups in Idaho totaled nearly \$5 million. Leaking underground storage tanks can pose a serious and long-term threat to groundwater.

EPA conducted a total of 257 UST inspections in Idaho during fiscal year 2004. The inspections revealed that only one in three facilities complied with federal UST requirements. Many tank owners appeared uncertain about ongoing operation and maintenance requirements for leak-detection technology. Without detection equipment, tank owners and operators have no way of knowing if their tanks are leaking. EPA plans to reach more of the

## **Underground Storage Tank Inspection Campaign** *continued*

estimated 1,300 facilities in Idaho by expanding the inspection and enforcement program and working with the Idaho Department of Environmental Quality (IDEQ) to provide technical assistance to owners and operators. EPA hopes to make Idaho a showcase of responsible UST operation and maintenance.

### **Two New NPDES Permits Help Improve Sewage-treatment in Alaska**

On July 21, 2004, EPA issued two general National Pollutant Discharge Elimination System (NPDES) permits for Alaska. These permits regulate small sewage-treatment plants that discharge less than 1.0 million gallons per day to either fresh or marine waters. As part of the 2004-2007 regional priorities, the NPDES Compliance Unit began inspecting these small facilities, many of which have old permits dating back to the 70's and 80's and have never been inspected by EPA.

Initially, 39 facilities—ranging from elementary schools, Department of Defense facilities, RV parks, native Alaskan villages and small municipalities—were covered under the permits. These facilities are located throughout the state, from southeast Alaska near Ketchikan, to central Alaska, to the North Slope. As a result of EPA's inspection presence and partnership with the Alaska Department of Environmental Conservation (DEC), applications for coverage under these two permits have increased by more than 30 percent. Compliance assistance tools are being developed to give the regulated community a better understanding of the new permits. These tools include a website and brochures that outline the conditions and requirements within the new permits. They also identify typical problems associated with small sewage-treatment plants, and respond to frequently asked questions.

## **Water-Pollution Problems Addressed at Two Alaska Seafood Processing Facilities**

EPA works with the seafood industry, a major element of Alaska's economy, to guide practices that impact the environment. Violations of waste disposal are corrected. For example:

Alaska General Seafoods (AGS) agreed to pay \$110,000 in penalties for violations of the federal Clean Water Act, and to prevent discharges of seafood processing wastes into Tongass Narrows. AGS is required to barge out waste (or use an alternate means of disposal) until its existing waste piles are remediated. The company was cited with discharging seafood sludge and other wastes that caused a film, sheen, emulsion, or scum on the surface of the water. Discharges violated the terms of its permits. EPA also found the company to be in violation of Alaska's water quality standards by having a seafood waste pile larger than the one-acre deposit zone for which it was permitted.

In another case, Icicle Seafoods of Seward, Alaska, agreed to pay \$85,000 in penalties for discharge violations, and to reduce discharges from the Seward Fisheries Facility into Resurrection Bay. Icicle Seafoods also agreed to undertake measures to prevent the build-up of underwater waste piles exceeding one acre; to minimize the amount of foam created on the surface waters of Resurrection Bay during the transfer of fish from vessels to the processing plant; to prevent the discharge of "oversize" waste; and to improve internal operating procedures.

## **Wetlands Are Being Restored to Their Natural Condition**

To settle allegations that he violated federal wetlands-protection laws on residential property he owns in Blaine County, Idaho, Bruce Willis, of Hailey, Idaho, signed a Consent Agreement and Final Order with EPA. The Agency alleged that in 2003 work was performed without a permit in wetlands on residential property owned by Mr. Willis. A half-acre forested wetland island was cleared of vegetation; a buried sprinkler system was installed;

and top soil was placed to fill depressions, level the ground and prepare for sod installation. Also 10 cubic yards of material were placed in a stream to provide access to the island. Under the terms of the Compliance Order, Mr. Willis will restore the site and replace the wetlands vegetation he destroyed. The settlement includes payment of a \$21,000 penalty.

On April 20, 2004, EPA issued an Administrative Compliance Order to Richard and Leslee Baker; Trailblazer Construction, LLC, Steven DeHart; B and R Fish-By-Products, Inc.; and the State of Alaska, Department of Transportation, for unauthorized discharge of dredged/fill material into U.S. waters. The respondents had dredged and filled intertidal waters that performed valuable ecological functions. These waters fulfill valuable salmonid habitat needs during storm events by providing refuge for salmon fry, serving as a source of food, and protection in the Pasagshak River ecosystem. The Alaska Department of Fish and Game observed Coho fry using this area near the unauthorized fill. As a result of the Compliance Order, the Bakers and DeHart removed some 1,753 cubic yards of unauthorized fill material from about 0.25 acres of intertidal area in the Pasagshak River, Kodiak Island, Alaska.

## **EPA Storm Water Initiative Boosts Compliance in Idaho and Alaska**

FY2004 marked a real milestone in Region 10's integrated storm-water-compliance strategy, which is aimed at increasing compliance with EPA's Construction General Permit (CGP). The Agency conducted 91 storm water construction site inspections throughout the region, most of them in Idaho and Alaska. This was a significant increase over the Region's usual four inspections per year.

Based on the inspection findings, the Region also issued 85 enforcement actions, the majority of them using the newly approved Expedited Settlement Offer (ESO) policy for more efficient processing of cases. The CGP regulates construction sites larger than one

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## **EPA Storm Water Initiative Boosts Compliance in Idaho and Alaska** *continued*

acre and requires site operators to develop and implement a Storm Water Pollution Prevention Plan to minimize the discharge to nearby waterways of sediment and other construction-related pollutants. This past year's enforcement efforts represent the first wave of intensive enforcement following three years of compliance assistance for builders and developers regarding the requirements of the CGP.

During those initial three years, EPA funded and conducted numerous training sessions in Idaho and Alaska, which reached hundreds of potential permittees. In addition to the compliance assistance effort and new tools like the ESO policy, the storm water strategy has used internal and external inspection trainings, interagency networking and contractor-led inspections to build the Agency's program capacity.

The overall goal has been to move the region from a reactive stance, in which EPA responds only to citizen complaints, to a more proactive approach that allows the Agency to strategically investigate potential noncompliance, sometimes before environmental harm has occurred. EPA's efforts have already had an effect: between June and October of 2004, the number of construction site operators filing for CGP permit coverage in Region 10 jumped by 68 percent. Through the administrative process, EPA is also pursuing nearly a dozen other enforcement cases that do not fit the ESO criteria.

## **MANAGING WASTES AND TOXICS**

### **Enforcement Action Against Oregon Metallurgical Corporation Leads to Remediation, Penalty and SEPs**

EPA discovery of potentially dangerous hazardous waste treatment practices led to an enforcement action against Oregon Metallurgical Corporation (Oremet), a mineral processor in Albany, Oregon. As part of a consent agreement, Oremet will pay a \$250,000 penalty and will spend almost \$500,000 to dedicate a portion of its facility as wetland.

The agreement stems from an enforcement action EPA took after agency inspectors visited the facility in 2000 and found the company operating a hazardous waste surface impoundment, or acid sump, without a permit. The company had been doing so for at least five years prior to the investigation. The inspection also revealed an unpermitted acid "spray pad," where minerals were dissolved in a shower of hydrochloric and sulfuric acids. This too had operated for at least five years. The investigation also uncovered hazardous material storage problems, including an open and unlabeled container of waste sulfuric acid.

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*Unpermitted spraying of high-concentration hydrochloric acid in the open air.*

## **Enforcement Action Against Oremet** (cont.)

After negotiating with EPA to resolve the alleged violations of the Resource Conservation and Recovery Act (RCRA), the company agreed to rectify the problems, pay the penalty, and perform two Supplemental Environmental Projects (SEPs). The projects include eliminating the acid washing process for titanium chip cleaning at its Albany, Oregon facility and directing its affiliate, TDY Industries, Inc., to dedicate some twelve acres of its Millersburg, Oregon facility as a wetland.

## **Bellevue Day Care Center to Protect Children from Leaking PCBs**

Responding to a request from the King County Health Department, Region 10 conducted two PCB inspections at the Surry Downs Day Care, a facility in Bellevue, Washington, serving about 90 children. Preliminary results of the inspection showed high levels of PCBs present in leaking light fixtures and carpeting. EPA quickly negotiated an agreement with King County—the building owner—to close the facility that very day pending further investigation. EPA Region 10 reviewed and has approved the owner's plan to fix the problems at the facility.

## **EPA Awards Voluntary Accelerated Reduction Grant to NW Public Power Assn.**

EPA issued a \$65,000 grant to the Northwest Public Power Association (NWPPA) for the Voluntary Accelerated Reduction of electrical equipment containing polychlorinated biphenyls (PCBs). PCB exposure can cause skin conditions, and may cause liver damage. This grant enables the NWPPA to begin this program in EPA West Coast regions. The PCB program is working with San Francisco State University to develop a tracking system that assures the safe storage and disposal of electrical equipment by private and public utilities.

## **EPA Lead-Based-Paint Disclosure Compliance Help Protects Children**

Many rural communities have older housing with a high risk of children's exposure to lead-based paint. Children who swallow flakes of the old paint may develop anemia, muscle weakness, and damage to their mental and physical growth. EPA's plan to increase compliance assistance to property owners in rural areas will help protect children from unnecessary exposure to lead.

In seven randomly selected rural counties of Washington and Oregon, EPA found that realtors, property managers, and property owners had not received Lead Real Estate Disclosure Rule compliance assistance materials from the Agency. Realtors and larger property managers in these areas were knowledgeable about lead-based paint disclosure and were attempting to comply. However, disclosure forms provided by their realty or property management associations contained only half of the required elements, and as a result, were not being completed correctly.

The owners and smaller property managers, who did not belong to associations where they would have the opportunity to learn about the Disclosure Rule, had a common reaction: "The Lead Disclosure Rule? Never heard of it, but tell us what we need to do." Agency inspections clearly demonstrated the need to expand compliance assistance in all rural areas of the Region, particularly in areas not served by real estate or property-management associations.

Region 10's Lead Program compliance assistance and inspections have traditionally focused on pre-1978 housing in low-income urban areas along the I-5 corridor in Washington and Oregon, where children are at the greatest risk for lead-based paint exposure. EPA assistance to rural realtors, property managers and property owners is protecting rural children as well.

## *IMPROVING AIR QUALITY*

### **EPA Aids Washington State Air Program Enforcement**

Clean air regulations protect human health from damaging releases into the environment. Most companies are concerned about and comply with air quality regulations. It is important that companies that violate those standards do not get an economic benefit for failing to comply.

In a review of Washington State's air compliance and enforcement program, EPA identified a key area for improvement, related to administrative penalties in enforcement actions. Special attention was paid to economic benefit and multi-day violations. EPA provided training to the Department of Ecology and the seven local agencies that administer Washington air programs. The training dealt with how to calculate the economic savings from non-compliance (called *economic benefit of non-compliance*).

Agencies reviewed their administrative penalty policies and, in several cases, revised them to capture more appropriate penalties for significant violations. In several actions, the responsible state or local agency focused on how it evaluated the economic benefits of a facility's non-compliance. The agency then ensured that final penalty settlements more than offset the savings the company enjoyed by not complying with the requirements. Because non-compliant companies will lose their competitive advantage, the penalty focus will lead to better compliance and cleaner air throughout Washington State.